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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Elvio Gasperini

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ARENT FOX LLP

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WASHINGTON, DC 20036

EXAMINER

WENDELL, MARK R

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

03/11/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com

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Office Action Summary	Application No. 10/578,227	Applicant(s) GASPERINI ET AL.	
	Examiner MARK R. WENDELL	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060504, 20081022</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 4-6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can refer to a claim in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 4-6 are not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases “of the panel **type**” and “are of the fluid dynamic expansion **type**” render the claim indefinite. The scope is unascertainable because the word “type” encompasses multiple variations of the structure.

Regarding claim 1, the phrase “or the like” and “in particular” renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by “or the like”), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d). Also, the phrase “or, if selected” renders the claim indefinite as well. There is question to whether negative pressure fluid is part of the invention or not because it is not positively claimed.

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Regarding claim 2, the language "and/or" is indefinite. This language does not particularly point out if all of the panels are connected or if only two of the panels are connected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Giuseppe (GB 2374110). Regarding claim 1, Giuseppe illustrates in Figures 1-3 and teaches within the specification an expansion seal apparatus comprising a frame (1, 2, 11 corresponding to the "suitable assembled separator means of the panel type"), a seal means (5 and 53) inserted between the frames 1 and 11 and consists of two tubular chambers (52, corresponding to the "tubular ducts"). The examiner notes that in each of the two tubular chambers, the activation of a supply of pressurized fluid causes the expansion of the tubular chamber (the activation of negative pressure fluid supply causes the tubular chamber to contract), i.e. the seal means (5) is of fluid dynamic expansion type (see description, page 9, line 4 to page 10 and Figs. 1-2 of this reference). Both the instant application and Giuseppe use a fluid dynamic expansion

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type seal means to separate a space isolated from the external environment. This shows that, the technology of using a fluid dynamic expansion type seal means to control a seal separation structure has been used in doors and windows. Sealing of packages and sealing of doors and windows belong to similar technical fields and both use a separation structure to isolate a delimited space from the external environment. Applying this known technology to a similar technical field does not produce any unexpected technical effects and can be easily thought of by a person of ordinary skill in the art. The examiner also notes that the use of this technology in packaging is intended use and is given no patentable weight because the structural limitations of the claim are met by Giuseppe.

Regarding claims 2 and 3, Giuseppe illustrates in Figures 1-3 the separator means (1, 2 and 11) comprising two panels (11, top and bottom) and a third mobile panel (2, door or window) between the other two panels (11). These technical features have been disclosed by Giuseppe (see description, page 9, line 4 to page 10 and Figs. 1-2 of this reference). Furthermore, the disclosed technical features have the same function in Giuseppe as in the present invention for solving the technical problem, i.e. both for making a fluid dynamic expansion type seal capable of controlling the opening and closing of a plate-formed door. Giuseppe also discloses a seal means (5) between the third panel (2) and each of the outer panels (11).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. WENDELL whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. R. W./
Examiner, Art Unit 3635
February 3, 2009